

Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) Title VI Guidance

Memorandum

Federal Highway Administration Federal Transit Administration

Subject: **ACTION:** Implementing Title VI Requirements
in Metropolitan and Statewide Planning Date: October, 7 1999

From: (Original signed by)
Kenneth R. Wykle
Administrator, FHWA
(Original signed by)
Gordon J. Linton
Administrator, FTA

Reply to
Attn. of: **TOA-1/HEPH-1**

To: FHW A Division Administrators
FTA Regional Administrators

Background

The purpose of this memorandum is to issue clarification to you in implementing Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d-1) and related regulations, The President's Executive Order on Environmental Justice, the U.S. DOT Order, and the FHWA Order.

Title VI states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Title VI bars intentional discrimination as well as disparate impact discrimination (i.e., a neutral policy or practice that has a disparate impact on protected groups).

The Environmental Justice (EJ) Orders further amplify Title VI by providing that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low- income populations."

Increasingly, concerns for compliance with provisions of Title VI and the EJ Orders have been raised by citizens and advocacy groups with regard to broad patterns of transportation investment

and impact considered in metropolitan and statewide planning. While Title VI and EJ concerns have most often been raised during project development, it is important to recognize that the law also applies equally to the processes and products of planning. The appropriate time for FT A and FHW A to ensure compliance with Title VI in the planning process is during the planning certification reviews conducted for Transportation Management Areas (TMAs) and through the statewide planning finding rendered at approval of the Statewide Transportation Improvement Program (STIP).

This memorandum serves as clarification pending issuance of revised planning and environmental regulations.

Requested Action

We request that during certification reviews you raise questions that serve to substantiate metropolitan planning organization (MPO) self-certification of Title VI compliance. Suggested questions are attached. Also attached are a series of actions that could be taken to support Title VI compliance and EJ goals, improve planning performance, and minimize the potential for subsequent corrective action and complaint.

Statewide planning is also subject to the same Title VI legislative requirements as the metropolitan planning process. The FHWA division offices, jointly with FT A regional offices, should review and document Title VI compliance when making the TEA-21 required finding that STIP development and the overall planning process is consistent with the planning requirements.

In part, the purpose of asking the questions attached to this memorandum is to review the basis upon which the annual self-certification of compliance with Title VI is made. The metropolitan planning certification reviews in TMAs and STIP findings offer an opportunity to FHWA and FTA staff to verify the procedures and analytical foundation upon which the self-certification is made. If it becomes evident that the self-certification was not adequately supported, a corrective action is to be included in their certification report to rectify the deficiency.

The FHW A's and FT A's Division and Regional Administrators should involve their respective civil rights staffs in the EJ and Title VI portions of the metropolitan planning certification reviews in TMAs and statewide planning findings.

Forthcoming Planning Regulations

As you know, FHWA and FTA are preparing to revise the planning (23 CFR 450 and 49 CFR 619) and environmental (23 CFR 771 and 49 CFR 622) regulations. In these rulemakings and subsequent documents, we will propose clarifications and appropriate procedural and analytical approaches for more completely complying with the provisions of Title VI and the Executive Order on Environmental Justice. Specifically, the proposals will focus on public involvement strategies for minority and low-income groups and assessment of the distribution of benefits and adverse environmental impacts at both the plan and project level.

If you have questions on metropolitan applications of this memorandum, please contact Sheldon M. Edner, Team Leader, Metropolitan Planning and Policies, FHWA (202) 366-4066 or Charlie Goodman, Division Chief, Metropolitan Planning, FT A (202) 366-1944. On statewide applications, please contact Dee Spann, Team Leader, Statewide Planning, FHWA (202) 366-4086 or Paul Verchinski, Chief, Statewide Planning, FTA (202) 366-1626.

cc:

FHW A Resource Center Directors

FHW A CBU and SBU Leaders

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FHW A/FT A Metro Offices
